

# Tonga

## AMITY, COMMERCE, AND NAVIGATION

*Treaty signed at Nukualofa, Tongatabu, October 2, 1886*

*Senate advice and consent to ratification, with an amendment, January 19, 1888*<sup>1</sup>

*Ratified by the President of the United States, with an amendment, February 7, 1888*<sup>1</sup>

*Ratified by Tonga August 1, 1888*

*Ratifications exchanged at Nukualofa August 1, 1888*

*Proclaimed by the President of the United States September 18, 1888*

*Entered into force September 18, 1888*

*Terminated (with exception of article VI) July 28, 1920*<sup>2</sup>

25 Stat. 1440; Treaty Series 357

### TREATY OF AMITY, COMMERCE AND NAVIGATION, BETWEEN THE UNITED STATES OF AMERICA AND THE KING OF TONGA

The United States of America, and the King of Tonga, mutually desirous of maintaining and strengthening their relations and interests; have resolved to conclude a treaty of amity, commerce and navigation; and to this end have empowered as their representatives: The President of the United States; George H. Bates, Special Commissioner of the United States to Tonga; And His Majesty, the King of Tonga; the Reverend Shirley Waldemar Baker,

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<sup>1</sup> The U.S. amendment struck out all of art. VII and inserted a new article. The text printed here is the amended text as proclaimed by the President. The text of art. VII as signed is as follows:

"All steam vessels which may be employed by the Government of the United States in the carrying of their mails in or across the Pacific Ocean shall have free access to all ports of the Tonga Islands and shall be there subject to no harbor or pilotage dues; Provided, that no vessel shall be entitled to such exemption, except upon condition of carrying, free of charge the Tongan mails to ports of destination and call of such vessel."

<sup>2</sup> Pursuant to notice of termination July 28, 1919, given by the British Foreign Office on behalf of the King of Tonga.

Premier of the Kingdom of Tonga; Who, after producing to each other their respective powers, have agreed upon the following articles:

#### ARTICLE I

There shall be perpetual peace and amity between the United States of America and the King of Tonga, his heirs and his successors.

#### ARTICLE II

The citizens of the United States shall always enjoy, in the dominions of the King of Tonga, and Tongan subjects shall always enjoy in the United States, whatever rights, privileges and immunities are now accorded to citizens or subjects of the most-favored nation; and no rights, privileges or immunities shall be granted hereafter to any foreign state or to the citizens or subjects of any foreign state by either of the High Contracting Parties, which shall not be also equally and unconditionally granted by the same to the other High Contracting Party, its citizens or subjects; it being understood that the Parties hereto affirm the principle of the law of nations that no privilege granted for equivalent or on account of propinquity or other special conditions comes under the stipulations herein contained as to favored nations.

#### ARTICLE III

Citizens of the United States in Tonga, and Tongans in the United States, may visit, sojourn and trade in any part of the respective jurisdictions, and rent, occupy and improve lands and erect dwellings, offices and ware-houses thereon, subject to the laws and regulations of the country; which shall however in no case, except in respect of employment as laborers, be more restrictive than those imposed upon the citizens or subjects of the respective country, or upon the citizens or subjects of the most-favored nation.

#### ARTICLE IV

There shall be reciprocal liberty of commerce and navigation between the United States and the Tonga Islands, and no duty of customs or other impost shall be charged upon any goods being the produce or manufacture of one country, when imported therefrom into the other country, other or higher than is charged upon the same, the produce or manufacture of or imported from any other country.

#### ARTICLE V

No other or higher duties or charges on account of harbor dues, pilotage, quarantine, salvage in case of damage or ship-wreck or other shipping charges shall be imposed in the dominions of the King of Tonga on vessels of the United States, or in the United States on Tongan vessels, than are imposed on vessels belonging to the most-favored nation.

## ARTICLE VI

The ships-of-war of either of the High Contracting Parties may enter all ports, places and waters within the jurisdiction of the other, to anchor and remain, take in stores, refit and repair, subject to the laws and regulations of the country. To enable this privilege to be carried out in his dominions, the King of Tonga agrees to secure to the government of the United States by lease at nominal rent, with covenants of renewal, all rights of free use of necessary ground in any harbor of the Tonga Islands which shall be mutually agreed upon, for the purpose of establishing a permanent coaling and repair-station, the rights of Tongan sovereignty therein being fully reserved and admitted; and in selecting a station for this purpose, due regard shall be had for any similar concession which the King of Tonga has or may have granted by treaty to any other government.

ARTICLE VII <sup>3</sup>

All steam vessels which may be employed by the Government of the United States in the carrying of their mails in and across the Pacific Ocean shall have free access to all ports of the Tonga Islands, and shall be there subject only to one-third of the usual harbor and pilotage dues, *provided* that no vessel shall be entitled to such exemption except upon condition of carrying free of charge the Tongan mails to ports of destination and call of such vessel.

## ARTICLE VIII

The whaling or fishing vessels of the United States shall have free access to the ports and harbors of Tonga, and in the ports of entry thereof shall be permitted to barter or trade their supplies or goods for provisions for the use of their own vessels and crews, without being subject to the law relative to trading licenses, and shall be subject to no port-, or harbor-dues or pilotage whatever; but this privilege of barter and trade shall not include the supplying of spirituous liquors, or arms or ammunition to the Tongans. And such whaling or fishing vessels shall, after having entered any port of entry in the Tonga Islands, be at liberty to anchor off any island or reef thereof, for the purpose of whaling or boiling down; *provided*, such vessel does not anchor within the distance of three nautical miles from any inhabited town,—but nothing in this clause shall be so construed as to permit infringement of the quarantine laws of the dominions of the King of Tonga.

## ARTICLE IX

All citizens of the United States residing in the Tonga Islands, and Tongan subjects residing in the United States, shall be exempted from all compulsory military service whether by sea or land, and from all forced loans, military

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<sup>3</sup> See footnote 1, p. 1043.

requisitions and quartering of troops. They shall, moreover not be compelled to pay any other or higher taxes or license fees, or personal dues of any kind, than are or may be paid by the citizens or subjects of the High Contracting Party levying the same.

#### ARTICLE X

Should any member of the ship's company desert from a vessel-of-war or merchant vessel of either of the High Contracting Parties, while such vessel is within the territorial jurisdiction of the other, the local authorities shall render all lawful assistance for the apprehension of such deserter, on application to that effect made by the Consul of the High Contracting Party concerned, or if there be no Consul, then by the master of the vessel.

#### ARTICLE XI

Each of the High Contracting Parties may appoint Consuls, Vice-Consuls, Commercial Agents and Vice-Commercial Agents, for the protection of trade, to reside in the territory of the other High Contracting Party; but before any Consular officer so appointed shall act as such, he shall in the usual form be approved of and admitted by the Government of the country to which he is sent; and all such Consular officers shall enjoy the same privileges and powers with those of the most favored nation.

#### ARTICLE XII

Consuls and Consular representatives of the United States in Tonga shall have all jurisdictional rights over civil and criminal matters concerning their own citizens and vessels, in conformity with the statutes of the United States and the law of nations; and they may call upon the authorities of Tonga for aid in making arrests or enforcing judgments: And, Citizens of the United States charged with committing offenses against Tongans shall be amenable only to the Consular jurisdiction and shall be punished according to the law of the United States: and Tongans charged with committing offenses against citizens of the United States shall be tried by Tongan courts and punished according to Tongan law.

Claims of a civil nature against citizens of the United States shall be cognizable only in the Consular jurisdiction, and Tongan Courts shall be open to citizens of the United States to prosecute such claims against Tongans, according to law: *Provided* that citizens of the United States charged with violations of laws and regulations of Tonga relating to customs, taxation, public health and local police not cognizable as such under the laws of the United States, shall be amenable to the jurisdiction of the Tongan Courts upon notice to the nearest U.S. Consul or Commercial Agent, if there be one resident in Tonga, who shall have the right to be present at the trial and to direct or provide for the defense of the accused; the proceedings at all such trials shall be public and the records thereof shall be public and accessible:

## ARTICLE XIII

Perfect and entire freedom of conscience and worship, with right of sepulture according to their creed, shall be enjoyed by the citizens or subjects of either of the High Contracting Parties within the jurisdiction of the other.

## ARTICLE XIV

This Treaty shall become effective upon promulgation and shall continue in force for ten years, and thereafter until one year after notice shall have been given by one of the High Contracting Parties to the other of its desire to terminate the same: save and except as to Article VI (relative to the establishment of a coaling-station), which shall be terminable only by mutual consent.

## ARTICLE XV

This Treaty shall be ratified and the ratifications exchanged at Nukualofa as soon as possible.

This Treaty is executed in duplicate, one copy being in English and the other in Tongan, both versions having the same meaning and intention, but the English version shall be considered the original, and shall control in case of any variance.

In witness whereof, the respective plenipotentiaries have signed this Treaty, and thereunto affixed their respective seals.

Done in the harbor of Nukualofa, in Tongatabu, on board the United States Steamer, "Mohican," this second day of October, in the year of our Lord, one thousand, eight hundred and eighty-six.

GEO. H. BATES	[SEAL]
SHIRLEY W. BAKER	[SEAL]